

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 5 and 6 have been cancelled. Claims 1-4 and 7-9 are currently being amended.

This amendment deletes and changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4 and 7-11 are now pending in this application with claims 10 and 11 being withdrawn.

Examiner's Comment

The Office Action suggested a minor correction be made to claim 1, to clarify the meaning of claim 1. In response, Applicant has added a comma between “glass” and “having” to clarify that the properties (VLT and SHGC) are referring to the layered structure on the glass substrate and not to the glass substrate alone.

Claim Rejections under 35 U.S.C. § 101 & 112

Claim 9 was rejected under 35 U.S.C. § 112, for being indefinite. Further, claim 9 was rejected under 35 U.S.C. § 101 for not being a proper process claim under 35 U.S.C. § 101. In response, Applicant has amended claim 9. Accordingly, Applicant requests that the rejection be withdrawn and claim 9 be allowed.

Claim Rejection under 35 U.S.C. § 102

Claims 1-5 and 7-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,996,105 (“Oyama”). In response, without agreeing or acquiescing to the rejection, Applicant has amended claim 1. Further, Applicant respectfully traverses the rejection for the reasons set forth below.

Applicant relies on M.P.E.P. § 2131, entitled “Anticipation – Application of 35 U.S.C. § 102(a), (b) and (e)” which states, “a claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Applicant respectfully submits that Oyama does not describe each and every element of amended claim 1.

Independent claim 1, as amended, is directed to an infra-red reflecting layered structure comprising, in addition to other elements “at least one protective intermediate layer comprising gold, said protective intermediate layer being located between a silver containing layer and a metal oxide layer and/or between a metal oxide layer and a silver containing layer.” Accordingly, the infra-red reflecting layered structure claimed in claim 1 has a special protecting layer comprised of gold for protecting the interface between the silver containing layer and the metal oxide layer. In addition, the protective intermediate layer protects the silver containing layer from corrosion and prevents the metal oxide layer and silver layer from intermixing.

Applicant respectfully submits that Oyama does not disclose, teach or suggest each and every element of the claims. Specifically, Oyama does not disclose, teach or suggest “at least one protective intermediate layer comprising gold, said protective intermediate layer being located between a silver containing layer and a metal oxide layer and/or between a metal oxide layer and a silver containing layer” as claimed in claim 1. Oyama is directed to a transparent laminated product. The Office Action asserts that Oyama’s interlayer (col. 5, lines 33-38) meets the claim limitation “intermediate layer” as recited in amended claim 1. Applicant respectfully disagrees. The “intermediate layer” of Oyama improves the adhesion of coating layers. See Col. 5, lines 33-34. In contrast, as stated above, the protective intermediate layer protects the interface between the silver containing layer and the metal oxide layer, protects the silver containing layer from corrosion, and prevents the metal oxide layer and silver layer from intermixing.

M.P.E.P. § 2131 states that “[t]he identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Here, Oyama fails to disclose “at least one protective intermediate layer

comprising gold, said protective intermediate layer being located between a silver containing layer and a metal oxide layer and/or between a metal oxide layer and a silver containing layer” as claimed in claim 1.

Accordingly, Applicant respectfully requests that the rejection be withdrawn and claim 1 as amended be allowed. Further, claims 2-4 and 7-9 depend from claim 1 and should be allowed for the reasons set forth above.

Claim Rejections under 35 U.S.C. § 103

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Oyama in full view of U.S. Patent No. 4,996,105 (“Miyazaki”).

Claim 6 depends from claim 1 and should be allowed for at least the reasons set forth above. Oyama fails to disclose each and every limitation of independent claim 1 as amended. Specifically, Oyama fails to disclose “at least one protective intermediate layer comprising gold, said protective intermediate layer being located between a silver containing layer and a metal oxide layer and/or between a metal oxide layer and a silver containing layer.” Further, Miyazaki fails to cure the deficiencies of Oyama. For example, Miyazaki discloses an interstitial layer formed of gold for improving adhesion at an interface. See Col. 7, lines 45-59. In contrast, as state above, the protective intermediate layer protects the interface between the silver containing layer and the metal oxide layer, protects the silver containing layer from corrosion, and prevents the metal oxide layer and silver layer from intermixing. Accordingly, Applicant request that the rejection be withdrawn and claim 6 be allowed.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment,

to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 5 / 13 / 08

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